86R19837 SCL-D

By:  Toth H.B. No. 3454

Substitute the following for H.B. No. 3454:

By:  Biedermann C.S.H.B. No. 3454

A BILL TO BE ENTITLED

AN ACT

relating to municipal release of extraterritorial jurisdiction and disannexation involving certain areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subchapter B, Chapter 42, Local Government Code, is amended by adding Section 42.0252 to read as follows:

Sec. 42.0252.  RELEASE OF EXTRATERRITORIAL JURISDICTION: CERTAIN AREAS. (a) This section applies only in the extraterritorial jurisdiction of a municipality to:

(1)  an area that is subject to a legal determination that the municipality failed to provide or agree to provide adequate services to the area; or

(2)  an area that is:

(A)  adjacent to an area described by Subdivision (1);

(B)  part of a real estate subdivision that contains all or part of an area described by Subdivision (1); and

(C)  under the jurisdiction of a single property owners' association that governs the entire real estate subdivision.

(b)  For purposes of this section, a real estate subdivision is:

(1)  the subdivision's platted area; and

(2)  adjacent property owned or subject to assessment by the property owners' association of the subdivision.

(c)  A majority of the registered voters in an area described by Subsection (a)(1) or in a portion of the area may petition the municipality to release the area from the municipality's extraterritorial jurisdiction.

(d)  A majority of the registered voters in an area described by Subsection (a)(2) may petition the municipality to release the area from the municipality's extraterritorial jurisdiction if a petition has been filed under Subsection (c) for another area located in the same real estate subdivision.

(e) A petition described by this section must be filed with the secretary or clerk of the municipality.

(f)  Not later than the 10th day after the date the secretary or clerk receives a petition under this section, the secretary or clerk shall determine whether the petition is valid. If the petition is determined valid, the governing body of the municipality shall immediately enter in the minutes or records of the municipality an order releasing the area from the municipality's extraterritorial jurisdiction.

(g)  After an area is released from a municipality's extraterritorial jurisdiction under this section, the area may:

(1)  remain as an unincorporated area of the county;

(2)  incorporate in accordance with state law; or

(3)  notwithstanding Section 43.014, be annexed by an adjacent municipality under the procedures prescribed by Subchapter C-3, C-4, or C-5, Chapter 43, as applicable, without being located in the municipality's extraterritorial jurisdiction.

SECTION 2.  Subchapter G, Chapter 43, Local Government Code, is amended by adding Section 43.1435 to read as follows:

Sec. 43.1435.  DISANNEXATION BY PETITION: CERTAIN REAL ESTATE SUBDIVISIONS. (a) This section applies only to an area that constitutes a portion of a real estate subdivision that is:

(1)  located in and contiguous to the boundary of a municipality;

(2)  under the jurisdiction of a property owners' association that governs the entire real estate subdivision; and

(3)  either:

(A)  subject to a legal determination that the municipality failed to provide or agree to provide adequate services to the area; or

(B)  adjacent to another area in the subdivision that is subject to a legal determination described by Paragraph (A).

(b)  For purposes of this section, a real estate subdivision is:

(1)  the subdivision's platted area; and

(2)  adjacent property owned or subject to assessment by the property owners' association of the subdivision.

(c)  A majority of the registered voters of an area subject to this section may petition the municipality to disannex the area. The petition must be filed with the secretary or clerk of the municipality.

(d)  Not later than the 10th day after the date the secretary or clerk receives the petition under Subsection (c), the secretary or clerk shall determine whether the petition is valid. If the petition is determined valid, the governing body of the municipality shall immediately enter in the minutes or records of the municipality an order discontinuing the area as part of the municipality. The area ceases to be a part of the municipality on the date of the entry of the order.

(e)  A disannexation under this section does not authorize the impairment of a municipal debt obligation and, to the extent applicable, the area is not released from its pro rata share of that indebtedness. The governing body shall continue to levy a property tax each year on the property in the area at the same rate that is levied on other property in the municipality until the taxes collected from the area equal its pro rata share of the indebtedness. Those taxes may be charged only with the cost of levying and collecting the taxes, and the taxes shall be applied exclusively to the payment of the pro rata share of the indebtedness. This subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.